

REMARKS

(1) The Examiner's objection to the drawing is noted and applicant is enclosing herewith a replacement sheet containing Figs. 5-8. Fig. 7 has been corrected to identify the openings by the reference numeral 58a (instead of 59).

(2) The specification has been corrected to conform to the corrected reference numeral in the drawing.

The claims have been significantly amended to clarify the novel aspects of the invention and are believed to be allowable as now presented.

(3) With respect to the Examiner's objection regarding the term "generally", applicant respectfully requests that the Examiner reconsider this requirement.

The term "generally" has been retained in claims 1, 2, 3, 8, 10 and 11, as it is believed that the usage is both necessary and proper therein. It is submitted that anyone skilled in the art would readily know what is meant by "generally cylindrical". Eliminating the term "generally" would allow one to easily adopt the entire substance of the invention without infringing the claim by simply making trivial departures from precisely a cylindrical, configuration. It is believed that

terms such as “substantially”, “about”, “generally”, etc. are both widely used in patents and are routinely recognized by the courts as appropriate.

In Andrew Corporation v. Gabriel Electronics, Inc., 847 F.2d 819, 821-22, 6 USPQ2d 2010, 2013 (Fed.Cir. 1988), the Court, with reference to terms such as “close to”, “substantially equal”, “closely approximate” indicated that

“The criticized words are ubiquitous in patent claims. Such usages, when serving reasonably to describe the claimed subject matter to those of skill in the field of the invention, and to distinguish the claimed subject matter from the prior art, have been accepted in patent examination and upheld by the courts.”

In Ecolab, Inc., v. Envirochem, Inc., 264 F.3rd 1358, 1367 (Fed.Cir.2001), the Court said

“Furthermore the use of the term ‘substantially’ to modify the term ‘uniform’ does not render this phrase to unclear such that there is no means by which to ascertain the claim scope.

We note that like the term ‘about’, the term ‘substantially’ is a descriptive term commonly used in patent claims to ‘avoid a strict numerical boundary to the specified parameter.’ Pall Corp. v. Micron Seps., 66 F.3d 1211, 1217, 36 USPQ2d 1225, 1229 (Fed.Cir. 1995); See, e.g., Andrew Corp. v. Gabriel Elecs. Inc., 847 F.2d 819, 821-22, 6 USPQ2d 2010, 2013 (Fed.Cir. 1988)”.

The Court in Ecolab stated the above after noting that

“The ‘818 written description does not reveal any special definition for the terms ‘substantially’ or ‘uniform’ or the phrase ‘substantially uniform’.”

In Verve LLC v. Crane Cams Inc., 65 USPQ2d 1051, 1054 (Fed.Cir. 2002), the Court with reference to the claimed term “substantially constant wall thickness” noted

“Expressions such as ‘substantially’ are used in patent documents when warranted by the nature of the invention, in order to accommodate the minor variations that may be appropriate to secure the invention. Such usage may well satisfy the charge to ‘particularly point out and distinctly claim’ the invention, 35 U.S.C. §112, and indeed may be necessary in order to provide the inventor with the benefit of his invention.” (emphasis added)

The subject matter of this application is easily understood, and courts and persons skilled in the art would have no difficulty in ascertaining the meaning of “generally cylindrical”, “generally flat” or “generally parallel” as used herein. Additionally, the elimination of the term would render the claims narrow and restricted far beyond the rights of the applicant to be able to protect the substance of the invention.

(4) Claims 2 and 10 have been amended with respect to clarification of the wing-like elements and the direction in which they are disposed.

(5) Paragraphs 3 and 11 have been amended to correct the objections indicated in Item 5 of the Office Action.

(6) With respect to limitation (d) of claim 8, it is intended to establish a reference level for the lowermost accessory element, in relation to the positioning

of the resilient retainer element and other (additional) disc-like accessory elements.

(7) Claim 12 has been amended to recite “the top portion” of the cartridge, for which there is antecedent basis at claim 8(a).

With respect to Items 9-23 of the Office Action, applicant has extensively amended the claims, either directly or by reason of dependency, to distinguish clearly from the prior art of record, and it is believed that all of the claims in the form now presented are allowable.

Independent claims 1 and 8 are directed to an accessory cartridge which is intended for removable and interchangeable reception in a specialized lighting fixture. Such lighting fixtures typically utilize one or more disc-like accessory elements to achieve various lighting effects. For theatrical applications, for example, the lighting effects may be changed with some frequency, and there can be large numbers of lighting fixtures to be serviced, such that ease and efficiency of loading and installing the cartridges is of considerable importance.

The claimed accessory cartridge incorporates a specialized spring arrangement which enables the disc-like accessory elements to be quickly installed, either in the form of a single element or an axial stack of a plurality of elements, after which the cartridge can be quickly and easily inserted in the front

barrel of a lighting fixture. The retaining clip element of the applicant's invention is arranged to engage the uppermost one of the accessory stack, whether it be a single element or a plurality thereof. No special compensation or dummy elements have to be used if only one or two accessory discs are installed, for example, where the accessory cartridge is designed for a maximum of three cartridges. The installer simply snaps the two disc-like elements in place, one on top of the other, and the job is done.

By comparison, the Kuchar et al. reference discloses an assembly in which the accessory discs (106) are inserted into the front barrel of the lighting fixture and are held therein "by any suitable means such as a circular wire (not shown) received within the periphery of the cartridge". It is by no means clear just what is meant by "a circular wire". Presumably, Kuchar et al. is describing a wire that would be inserted into the media cartridge 108 after installation of the accessory discs 106 to engage the topmost disc. The circular wire presumably would act frictionally against the inside walls of the cartridge 108 to restrain the discs. This of course is totally unlike the structure claimed by the applicant and would, at the very least, require an additional loose piece and an additional assembly operation to install the spring.

It is submitted that the disclosure in Kuchar et al. of "a circular wire" clearly teaches away from the applicant's invention, and certainly a disclosure of "any suitable means" is in effect a disclosure of nothing.

The proposed combination of Kuchar et al. and Sweet is (a) not suggested by the references themselves, and (b) not a fair teaching of the subject matter of the applicant's claims. The Sweet patent is directed to a spring clip arrangement for securing a glass pane in an instrument housing and is not in any way intended to receive a plurality of accessory elements. The Kuchar et al. reference deals with the problem of multiple accessory discs by providing a separate circular spring to secure the discs after positioning. Sweet does not even contemplate, much less provide for, the acceptance of different numbers of discs and thus would not be suitably combined with Kuchar et al. under any circumstances. In specialized lighting, both the number and type of accessory discs might change from time to time, and the equipment must accommodate the accessory discs in whatever number employed (within the overall limits of the equipment). The applicant's invention provides a simple structure in which one or more accessory discs are simply snapped into place in the cartridge ring, with the spring always engaging at least the uppermost disc of the stack, such that the entire stack is always kept firmly in place. No combination of Kuchar et al. and Sweet (assuming the combination were proper in the first instance) reaches this result.

The Bucher et al. reference is believed to be nonrelevant, as it discloses a spring which is received on the inside of a lamp globe. It is totally unrelated to anything having to do with the installation and retention of accessory discs in specialized lighting. It is believed that the amendments to the claims, clarifying the

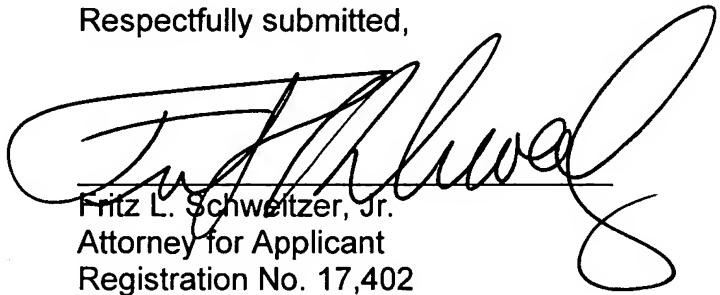
geometry of the wing-like side elements, should resolve any issues relating to the Bucher et al. patent.

With respect to claims 6 and 7 and 12-15, the Maynard reference has combined with Kuchar et al. and Sweet. These claims all deal with the fact that the accessory cartridge is received within a front barrel portion of the lighting fixture. The Maynard reference shows nothing relevant to this structure. Maynard teaches the use of magnetic rings for mounting of a series of accessories at the front of a camera or the like. This includes an adaptor ring 12, which is mounted at the front of the camera or the like, and receives an accessory, such as a lens; filter, sunshade, etc. The accessories can be stacked in axial adjacency by means of magnetic rings. This is unrelated to the claimed structure involving the installation of accessory discs within a removable and interchangeable accessory cartridge, which in turn is received within the forward barrel portion of a lighting fixture.

With the applicant's structure, an accessory cartridge can be pre-loaded with the appropriate accessory discs by a snap-in assembly, and the pre-loaded accessory cartridge is simply placed in the open front barrel of the lighting fixture after removing the previously installed cartridge. Nothing like this is suggested by Maynard or the other prior art of record.

In view of the amendments presented herein, it is believed that the claims clearly distinguish from the prior art and are entitled to allowance, in the absence of a discovery of more relevant art.

Respectfully submitted,



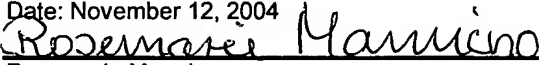
Fritz L. Schweitzer, Jr.
Attorney for Applicant
Registration No. 17,402

Customer No. 022831

Schweitzer Cornman Gross & Bondell LLP
292 Madison Avenue – 19th Floor
New York NY 10017
Tel: 646-424-0770
Fax: 646-424-0880

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on the date indicated below.

Date: November 12, 2004


Rosemarie Mannino